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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/748,942	12/27/2000	Charles A. Eldering	T721-15	6478

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TECHNOLOGY, PATENTS AND LICENSING, INC./PRIME
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EXAMINER	
LAMBRECHT, CHRISTOPHER M	
ART UNIT	**PAPER NUMBER**
2623	

DATE MAILED: 05/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/748,942	ELDERING ET AL.	
	Examiner	Art Unit	
	Chris Lambrecht	2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *21 February 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-11 and 15-23* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-11 and 15-23* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *2/06, 10/05, 8/05*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 21 February 2006 have been fully considered but they are not persuasive. The amendments to claims 1, 15, and 23 fail to patentably distinguish over the prior art of record. Specifically, Applicant argues that neither Hite nor Guyot teach a queue of targeted advertisements having a controllable predetermined spacing, wherein the targeted advertisements are repeatedly inserted (in a program stream for display) according to the spacing.

The amended claim limitations require that some index of space separating any two advertisements within the queue be controllable, such that the spacing may be determined prior to the moment of insertion. Further, the system repeatedly inserts commercials in the queue according to this spacing.

Spacing, as claimed, could be a time interval, a number of intervening commercials, or any other measure of space separating the playback of the commercials in the queue. The limitation calling for repeated insertion of the advertisements according to the controllable spacing requires that the system insert more than one commercial stored in the queue, according to the spacing.

Hite teaches storing a queue of advertisements at a subscriber site and inserting the advertisements into a program stream according to controllable predetermined times or sequences (col. 12, lines 3–27; col. 11, lines 40–57; col. 3, lines 8–17). The insertion times or sequences employed in Hite constitute spacing between advertisements stored in the queue. Thus, the targeted advertisements within Hite's queue have a controllable predetermined spacing. And the fact that Hite teaches inserting a sequence of advertisements is evidence that the insertion process is performed repeatedly, in accordance with the spacing.

As such, the amended claims fail to patentably distinguish over the prior art of record as set forth in the rejections that follow.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims **1-11 and 15-23** are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,002,393 to Hite et al (hereinafter "Hite") in view of Guyot (of record).

Regarding **claims 1, 15, and 23**, Hite discloses, in a television network (fig. **1**), subscriber equipment (at display site **400**, detailed in fig. **4**) and corresponding method for displaying targeted advertisements to a subscriber (col. **6**, ll. **39-47**), the subscriber equipment comprising:

a communications interface (commercial processor **578** of set-top box **500**, fig.**5**) for receiving at least one queue (targeted commercial display instructions/commercial targeting information, col. **11**, ll. **45-51**) identifying a sequence of targeted advertisements (instructions indicate which commercials to play, col. **4**, ll. **9-14**, and specify playback sequence of targeted commercials, col. **3**, ll. **8-17**), wherein the at least one queue is selectively distributed to the subscriber and the targeted advertisements have been previously matched to the subscriber (col. **7**, ll. **57-65**), and wherein the targeted advertisements within the queue have a controllable predetermined spacing (col. 12, lines 3–27; col. 11, lines 40–57; col. 3, lines 8–17);

memory (**612**, fig. **6**) for storing the at least one queue (col. **11**, ll. **22-27** and **53-54**; see also col. **4**, ll. **9-14**);

a processor (**600**, fig. **6**), responsive to the at least one queue, configured to repeatedly insert the targeted advertisements into avails in program streams (designated commercial times/spots, col. **12**, ll. **15-27**) for display, according to the controllable predetermined spacing, to the subscriber in accordance with the sequence (col. **11**, ll. **58-60**, col. **4**, ll. **53-56**, and col. **3**, ll.**8-17**), wherein the sequence is independent of the content of the corresponding program stream (col. **3**, ll. **8-17** and col. **5**, ll. **40-51**).

Hite fails to disclose a trigger circuit as claimed, but does disclose a frequency feature for tracking the number of successful exposures of targeted ads for contractual purposes (col. **2**, l. **66** - col. **3**, l. **8**).

In an analogous art, Guyot discloses a targeted ad system in which a queue of targeted ads is depleted (*i.e.*, reaches a low-level) responsive to, *inter alia*, a determination that individual ads specified therein have been successfully presented a given number of times, as established by their respective providers (col. **6**, l. **67** - col. **7**, l. **6** and col. **3**, l. **66** - col. **4**, l. **14**). Furthermore, Guyot discloses a trigger circuit for determining if the at least one queue has reached a low-level, wherein said communications interface refreshes the at least one queue in response to a low-level determination by said trigger circuit (col. **6**, ll. **64-67** and col. **7**, ll. **6-11**), thus keeping the ads queued for display to the subscriber up to date (col. **2**, ll. **29-36**).

Accordingly, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the subscriber equipment of Hite to include a trigger circuit for determining if the at least one queue has reached a low-level, wherein said communications interface refreshes the at least one queue in response to a low-level determination by said trigger circuit, as taught by

Guyot, for the benefit of increasing advertising opportunities by continuously refreshing ads queued for display in accordance with fulfillment of prior advertisement contracts.

As to **claims 2 and 16**, Hite and Guyot together disclose the system and corresponding method of claims 1 and 15, further comprising a counter for tracking number of times each targeted advertisement is displayed to the subscriber (Hite, col. **2**, l. **66** - col. **3**, l. **8**, and col. **3**, ll. **29-40**).

As to **claim 3**, Hite and Guyot together disclose the system of claim 1, wherein said communications interface also receives the targeted advertisements and said memory also stores said targeted advertisements (Hite, col. **12**, ll. **3-27**).

As to **claims 4 and 17**, Hite and Guyot together disclose the system and corresponding method of claims 3 and 15, wherein each targeted advertisement stored in memory is identified by an advertisement identifier that uniquely identifies the targeted advertisement and the at least one queue references the advertisement identifier (where data related to the usage of particular advertisement at the receiver site is maintained [see rejection of claim 3], there inherently exists a unique advertisement identifier; furthermore, presentation of particular commercials in a sequence according to the commercial display instructions [*i.e.*, queue; see rejection of claims 1 and 15] inherently requires said instructions reference said identifier).

As to **claims 5 and 18**, Hite and Guyot together disclose the system and corresponding method of claims 1 and 15, wherein for each targeted advertisement, the at least one queue includes advertiser data identifying the advertiser sponsoring the advertisement (where the usage a of a particular advertisement is subsequently referenced to the sponsoring advertiser [see rejection of claim 3], said queue inherently includes data which can identify said sponsoring advertiser).

As to **claims 6-8, and 19-21**, Hite and Guyot together disclose the system and corresponding method of claims 1 and 15, wherein for each targeted advertisement, the at least one

queue includes: a time frame defining a time during which the targeted advertisement should be displayed, including an hour frame, as claimed; and an expiration date of the targeted advertisement, as claimed (Guyot, col. 4, ll. **34-57**).

As to **claims 9 and 22**, Hite and Guyot together disclose the system and corresponding method of claims 1 and 15, wherein said trigger circuit determines that the at least one queue has reached a low-level if the at least one queue has less than a predetermined number of targeted advertisements remaining (Guyot, col. **6**, l. **64** - col. **7**, l. **11**).

As to **claim 10**, Hite and Guyot together disclose the system of claim 1. In addition, Hite discloses said communication interface is connectable to an advertising management system (**200**, fig. **1**) over a network connection wherein the targeted advertisements are identified by the advertisement management system based on a profile of the subscriber supplied to the advertisement management system (col.**7**, ll. **7-36**).

As to **claim 11**, Hite and Guyot together disclose the system of claim 1. In addition, Hite discloses the at least one queue includes a state indicator (low-level trigger) for activating said trigger circuit (Guyot, col. **6**, l. **64** - col. **7**, l. **11**).

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on

the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chris Lambrecht whose telephone number is (571) 272-7297. The examiner can normally be reached on M-F, 9:30 AM - 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on M-F at (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Chris Lambrecht
Examiner
Art Unit 2623

CL

JOHN MILLER
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